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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARK ROGERS,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:02-cv-00342-GMN-WGC

ORDER

In this habeas corpus action, the Court has granted the petitioner, Mark Rogers, an evidentiary hearing with respect to Ground 5 of Rogers' second amended habeas petition. See Order entered November 6, 2017 (ECF No. 215); Order entered November 28, 2017 (ECF No. 217). The evidentiary hearing will commence on October 22, 2018. See Order entered March 14, 2018 (ECF No. 222).

Rogers will appear at the evidentiary hearing from Ely State Prison (ESP) by video. See Order entered September 11, 2018 (ECF No. 251). The Court has directed the respondents "to make arrangements at the prison where the petitioner is incarcerated to have the petitioner appear by video at the evidentiary hearing." See *id.* at 2. As it is unclear whether anything has been done in this regard to date, the Court will further order the respondents to have ESP personnel contact Court personnel by October 12, 2018, to inform the Court of the status of those arrangements and to further coordinate the arrangements.

1 Rogers' counsel has represented that one of Rogers' attorneys will be present with
2 Rogers, at ESP, during the evidentiary hearing, to consult with him. See Notice filed
3 September 18, 2018 (ECF No. 253).

4 On October 9, 2018, Rogers filed a "Motion Permitting Mobile Phone at Prison"
5 (ECF No. 259). In that motion, Rogers requests that the Court order the respondents to
6 allow his counsel to possess a mobile phone at ESP during the evidentiary hearing, and
7 to use it to communicate with co-counsel in the courtroom by text messaging. Rogers
8 argues that this would be the most efficient method of communication between Rogers'
9 counsel at the prison and his counsel in the courtroom. Rogers' counsel represent that
10 they have requested permission from prison personnel for such use of a mobile phone at
11 ESP during the evidentiary hearing, but the request was denied.

12 On October 9, 2018, Rogers also filed an "Emergency Motion to Expedite
13 Resolution of Motion for Order Permitting Mobile Phone at Prison" (ECF No. 258),
14 requesting that the Motion Permitting Mobile Phone at Prison be expedited, and resolved
15 no later than October 16, 2018. The Court will grant this motion and will set an expedited
16 briefing schedule.

17 **IT IS THEREFORE ORDERED** that the respondents are directed to have
18 appropriate ESP personnel contact Court personnel to inform the Court of the status of
19 the arrangements for Rogers' appearance by video at the evidentiary hearing, and to
20 further coordinate those arrangements. Respondents are to have ESP personnel contact
21 Aaron Blazeitch (aaron_blazeitch@nvd.uscourts.gov), regarding this matter, no later
22 than October 12, 2018, at 4:00 p.m.

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1 **IT IS FURTHER ORDERED** that the petitioner's "Emergency Motion to Expedite
2 Resolution of Motion for Order Permitting Mobile Phone at Prison" (ECF No. 258) is
3 **GRANTED**. Respondents will have until **1:00 p.m. on October 11, 2018**, to respond to
4 the Motion Permitting Mobile Phone at Prison. Thereafter, Rogers will have until **10:00**
5 **a.m. on October 12, 2018**, to file a reply, if necessary.

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7 DATED THIS 10 day of October, 2018.

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11 GLORIA M. NAVARRO,
12 CHIEF UNITED STATES DISTRICT JUDGE
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